

APPEAL TO THE BOARD OF ADJUSTMENT

City of Frisco, Texas

Case No. _____

FILING FEE: 150.00

Receipt No. _____

Receipt Date _____

PLEASE TYPE OR PRINT USING BLACK INK**DATA RELATIVE TO VARIANCE REQUEST:**

Street Address: 5995 Eldorado Zoning District: Retail and PD-156
Lot Number: 1 Block Number: 1 Addition: Home Depot Addition

TO THE HONORABLE BOARD OF ADJUSTMENT:

<u>Rob Baldwin for Capital Telecom</u>	<u>214-824-7949</u>
Applicant	Applicant's Phone Number & FAX Number
<u>401 Exposition</u>	<u>Dallas</u>
Applicant's Street Address	City
<u>TX</u>	<u>75226</u>
State	Zip

In accordance with the provisions of the Comprehensive Zoning Ordinance, appeal is now made to the Honorable Board of Adjustment to grant the following variance request:

To allow a variance to Article II, Section 36, Subsection 36(B)(1)
of the City's Zoning Ordinance that requires Commercial Antenna
Support Structures to be setback the height of the tower from all
property lines.

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that **all** of the following conditions are met. State how your request meets these conditions. **Please note that the stated hardship may not be financial or self-induced.**

a. The requested variance does not violate the intent of the Ordinance or its amendments:
The variance request does not violate the intent of the Zoning
Ordinance as the proposed location of the antenna support
structure will be masked by the building and the adjacent
overhead power lines. The proposed location is the best place
to locate this structure.

b. Special conditions or restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district:
The Property has been improved with a Home Depot facility which
limits the location where an antenna structure can be located.
There is a building, detention pond and overhead power lines that
curtail the ability to move the site to the north. The lot has an
awkward configuration that prohibits putting the structure on
the northern part of the property.

V09-0008

- c. The hardship is in no way the result of the applicant's own actions:
The hardship is caused by the configuration of the property
and improvements to the Property.

- d. The interpretation of the provisions in this Ordinance or its amendments would
deprive the applicant of rights commonly enjoyed by other properties in the same
zoning district that comply with the same provisions.

It is clear that the proposed location is the best spot for
the proposed structure and other properties with the same
zoning classification do not have the power lines, odd lot shape
and detention pond constraining the property.

PLEASE CHECK ONE:

 I will represent this variance request at the Board meeting.

 X I will not be able to represent this variance request at the Board meeting.
My authorized representative, who will request this variance before the
Board of Adjustment is:

Robert Baldwin	214.824.7949 / 866.362.0238 fax		
Name (Please print)	Telephone/FAX Number		
401 Exposition Ave.	Dallas, Texas 75226		
Street Address	City	State	Zip

IF APPLICANT IS NOT PROPERTY OWNER, PLEASE COMPLETE THE FOLLOWING:

HD Development Properties, LP

732.926.3666

Property Owner (Please Print)

Telephone Number

PO Box 105842

Atlanta

GA 30348

Street Address

City

State

Zip

Capital Telecom Acquisition, LLC

973.425.1616

Tenant Name (Please Print)

Telephone Number

1500 Mt Kemble Ave. Suite 203

Morristown

NJ 07960

Street Address

City

State

Zip

STATE OF TEXAS

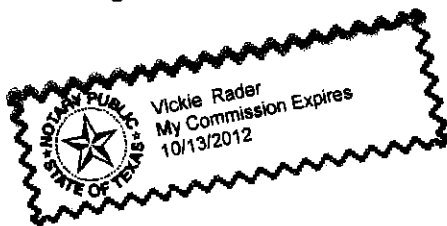
COUNTY OF _____

Subscribed and sworn to before me this 23rd day of Nov, 2009, by Robert Baldwin, who, on his/her oath certifies that the above statements are true and correct to the best of his/her knowledge.

Vickie Rader
(Notary Public)

My commission expires: 10/13/12

I do hereby certify that the above statements are true and correct to the best of my knowledge.



X

[Signature]

(Applicant's Signature)

(Date)

If the owner of the subject property is not the applicant, by signing below, the owner authorizes the applicant or his authorized representative to make this application on his behalf and to appear before the Board.

X HD DEVELOPMENT PROPERTIES, LP

(Owner)

(Date)

By JOHN TASCIONE - Sr. Director Real Estate
Home Depot USA, Inc.